

REMARKS

CLAIM OBJECTIONS

Claim 10 has been amended, substantially as suggested
5 by Examiner Dooley.

CLAIM REJECTIONS UNDER 35 USC 102

Claims 9 and 10 stand rejected for anticipation by
Paskey et al (U.S. 6,240,856). Amended claim 9, however, recites
10 an assembly having a hitch receiver that extends horizontally.
This is certainly a critical distinction when the object of the
device is to hold a bicycle rack or other hitch receiver mounted
device that itself extends horizontally. Moreover, there is no
suggestion for combining the teachings of Paskey et al., with
15 those of any hitch receiver art, as it is in a different field
of art and directed to an entirely different purpose.

CLAIM REJECTIONS UNDER 35 USC 103

Claim 1 and 5-6, stand rejected under 35 USC 103, as
20 being rendered obvious by Parrish (US Published Application
2002/0017770). Claim 1 recites a hitch receiver assembly that
includes both a class III type hitch receiver and an attachment
plate defining a fastener hole, to which the hitch receiver is
rigidly attached. Moreover, the fastener hole, as shown in the
25 figures, is co-planar to the hitch receiver. That is, a plane
that bisected the hitch receiver, extending through its front to
its back (i.e. where the hitch receiver attaches to the plate)
would also bisect the upper and lower attachment apertures.
Claim 1 further recites that in the method, both the hitch
30 receiver and the fastener hole are aligned to the same stud.
This would be impossible using the device of Parrish, in which
none of the fastener holes are directly above or below the hitch

receiver when the hitch receiver assembly is oriented so as to be attached to a wall.

This is a critical distinction, because although Parrish does disclose that a hitch apparatus could be a bicycle rack, he does not disclose that it could be a bicycle rack loaded with a bicycle (claim 6) nor does he disclose how to construct a hitch receiving assembly that is strong enough and that can be anchored to a wall well enough to support a bicycle rack, particularly when loaded with a bicycle. Unlike the present application, Parrish gives no guidance as to the type of material used and does not show a construction that appears to be particularly robust. As such, Parrish cannot be considered enabling in the disclosure of supporting a bicycle rack hitch.

Further, the alignment of hitch receiver and fastener hole recited in claim 1 is particularly advantageous, because it permits a device that is stronger, and yet has the potential to weigh the same amount or less than a hitch receiving assembly constructed according to the teachings of Parrish, who shows a plate that extends to the side of the hitch receiver, thereby adding weight, but not directly contributing to the structural task of supporting the loaded hitch receiver. In the device of the present application, there is no wasted material extending to the side, providing a design that does the job at lower cost and weight.

Further, the Parrish device is impractical for attachment to a stud bearing wall, because the spacing of the attachment holes would have to match the stud spacing. Not only is this never taught in Parrish, but stud spacing may vary, so that a device according to Parrish that could be installed in a first stud bearing wall, would not be susceptible to installment in a second stud bearing wall having a different spacing.

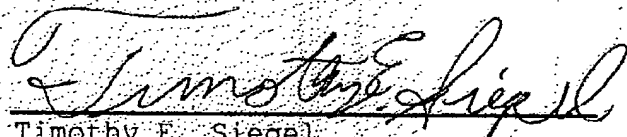
Any single reference obviousness rejection must be based in part on facts within the personal knowledge of an employee of the Office, to bridge the admitted gap between the teachings of the single reference and the limitations of the rejected claims. Accordingly, applicant calls upon the PTO to file an affidavit under 37 CFR 1.104(d)(2), quoted below, for any such facts relied upon in any rejection under 37 CFR 1.103.

(2) When a rejection in an application is based on facts within the personal knowledge of an employee of the Office, the data shall be as specific as possible, and the reference must be supported, when called for by the applicant, by the affidavit of such employee, and such affidavit shall be subject to contradiction or explanation by the affidavits of the applicant and other persons.

37 CFR 1.104(d)(2)

It is respectfully submitted that the claims are now in condition for allowance. Reconsideration and early notice of allowance are respectfully solicited.

Respectfully submitted,



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